Mail Stop Interference P.O. Box 1450 Alexandria Va 22313-1450 Tel: 571-272-9797

Fax: 571-273-0042

UNITED STATES PATENT AND TRADEMARK OFFICE

Paper 1

Filed: April 6, 2009

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Institut National de la Recherche Agronomique, Junior Party (Application 10/613.053

Inventors: Jun Imamura, Hideya Fujimoto, Ritsuko Yanagidate, Nobuya Koizuka, Takako Sakai and Takahiko Hayakawa),

v.

BASF Plant Science GMBH, McGill University, and DNA Landmarks, Inc., Senior Party (Patent 7,314,971

Inventors: Fang-Ming Lai, Charles Dendy, Natasa Formanova, Gregory G. Brown, Benoit S. Landry, Wing Cheung, Hua Jin and Martin LaForest).

> Patent Interference No. 105,682 (RES) (Technology Center 1600)

DECLARATION - Bd.R. 203(b)

Part A. Declaration of interference 1 An interference is declared (35 U.S.C. § 135(a)) between the above-2 3 identified parties. Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as 4 5 not corresponding to the count(s) appear in Parts D and E of this 6 DECLARATION. 7 Part B. Judge managing the interference 8 Administrative Patent Judge Richard E. Schafer has been designated 9 to manage the interference. Bd. R. 104(a). 10 Part C. Standing order 11 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies 12 this DECLARATION. The STANDING ORDER applies to this 13 interference. 14 Part D. Identification and order of the parties 15 Junior Party 16 Named inventors: Jun Imamura 17 Hideva Fuiimoto 18 Ritsuko Yanagidate 19 Nobuva Koizuka 20 Takako Sakai 21 Takahiko Hayakawa 22 10/613,053 filed July 7, 2003 Involved Application: 23 Title: Protein Involved in Restoration of Cytoplasmic 24 Male Sterility to Fertility and

- 2 -

Gene Encoding the Protein and Gene

Institut National de la Recherche Agronomique

25

26

Assignee of Record:

	1	Senior Party			
11 10/345,072 filed January 15, 2003 12 Title: Nuclear Fertility Restorer Genes and Methods of use in Plants 13 Assignees of Record: BASF Plant Science GMBH McGill University DNA Landmarks, Inc. 16 DNA Landmarks, Inc. 17 18 The senior party is assigned exhibit numbers 1001-1999. The juni party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); 20 SO ¶ 154.2.1. The senior party is responsible for initiating settlement discussions. SO ¶ 126.1. 21 discussions. SO ¶ 126.1. 22 Part E. Count, claims and benefit of the parties 23 Count 1 24 To be determined. Count 1 25 The claims of the parties are: 27 Application 10/613,053: Claims: 24-26, 28, 29, 32, 34, 37-41 43, 44, 47, 53, 54, 59, 63, 6 73-106	3 4 5 6 7 8	Charles Dendy Benoit S. Landry Wing Cheung Hua Jin Fang-Ming Lai Natasa Formanova			
Methods of use in Plants Assignees of Record: BASF Plant Science GMBH McGill University DNA Landmarks, Inc. The senior party is assigned exhibit numbers 1001-1999. The juni party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party is responsible for initiating settlement discussions. SO ¶ 126.1. Part E. Count, claims and benefit of the parties Count 1 To be determined. The claims of the parties are: Application 10/613,053: Claims: 24-26, 28, 29, 32, 34, 37-41 43, 44, 47, 53, 54, 59, 63, 6 73-106		Involved Patent:			
15 McGill University 16 DNA Landmarks, Inc. 17 18 The senior party is assigned exhibit numbers 1001-1999. The juni 19 party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); 20 SO ¶ 154.2.1. The senior party is responsible for initiating settlement 21 discussions. SO ¶ 126.1. 22 Part E. Count, claims and benefit of the parties 23 Count 1 24 To be determined.¹ 25 26 The claims of the parties are: 27 Application 10/613,053: Claims: 24-26, 28, 29, 32, 34, 37-41 28 43, 44, 47, 53, 54, 59, 63, 6 29 73-106		Title:			
The senior party is assigned exhibit numbers 1001-1999. The juminary is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party is responsible for initiating settlement discussions. SO ¶ 126.1. Part E. Count, claims and benefit of the parties Count 1 To be determined.¹ The claims of the parties are: Application 10/613,053: Claims: 24-26, 28, 29, 32, 34, 37-41, 43, 44, 47, 53, 54, 59, 63, 66, 73-106	15 16	Assignees of Record:	McGill University		
party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party is responsible for initiating settlement discussions. SO ¶ 126.1. Part E. Count, claims and benefit of the parties Count 1 To be determined.¹ The claims of the parties are: Application 10/613,053: Claims: 24-26, 28, 29, 32, 34, 37-41 43, 44, 47, 53, 54, 59, 63, 6 73-106		The senior party is assigned exhibit numbers 1001 1000. The junior			
20 SO ¶ 154.2.1. The senior party is responsible for initiating settlement 21 discussions. SO ¶ 126.1. 22 Part E. Count, claims and benefit of the parties 23 Count 1 24 To be determined.¹ 25 26 The claims of the parties are: 27 Application 10/613,053: Claims: 24-26, 28, 29, 32, 34, 37-41 28 43, 44, 47, 53, 54, 59, 63, 6 29 73-106					
21 discussions. SO ¶ 126.1. 22 Part E. Count, claims and benefit of the parties 23 Count 1 24 To be determined.¹ 25 The claims of the parties are: 27 Application 10/613,053: Claims: 24-26, 28, 29, 32, 34, 37-41 28 43, 44, 47, 53, 54, 59, 63, 6 29 73-106					
22 Part E. Count, claims and benefit of the parties 23 Count 1 24 To be determined. 25 The claims of the parties are: 27 Application 10/613,053: Claims: 24-26, 28, 29, 32, 34, 37-41 28 43, 44, 47, 53, 54, 59, 63, 6 29 73-106					
23 Count 1 24 To be determined. 1 25 26 The claims of the parties are: 27 Application 10/613,053: Claims: 24-26, 28, 29, 32, 34, 37-41 28 43, 44, 47, 53, 54, 59, 63, 6 29 73-106		A			
24 To be determined. ¹ 25 26 The claims of the parties are: 27 Application 10/613,053: Claims: 24-26, 28, 29, 32, 34, 37-41 28 29 43, 44, 47, 53, 54, 59, 63, 6 73-106		·			
25 26 The claims of the parties are: 27 Application 10/613,053: Claims: 24-26, 28, 29, 32, 34, 37-41 28 43, 44, 47, 53, 54, 59, 63, 6 29 73-106					
26 The claims of the parties are: 27 Application 10/613,053: Claims: 24-26, 28, 29, 32, 34, 37-41 28 43, 44, 47, 53, 54, 59, 63, 6 29 73-106		To be determined.			
28 43, 44, 47, 53, 54, 59, 63, 6 29 73-106		The claims of the parties are:			
30 Patent 7,314,971: Claims: 1-18	28	Application 10/61	3,053: Claims:	43, 44, 47, 53, 54, 59, 63, 64,	
	30	Patent 7,314,971:	Claims:	1-18	

See 37 CFR § 41.104(b).

1 2 The claims of the parties which correspond to Count 1 are: 3 Application 10/613,053: Claims: To be determined Patent 7,314,971: 4 Claims: To be determined 5 The claims of the parties which do not correspond to Count 1, and, therefore, 6 are not involved in the interference are: Claims: To be determined 7 Application 10/613,053: 8 Patent 7,314,9711: Claims: To be determined 9 The parties are accorded the following benefit for Count 1: 10 Application 10/613,053: None Patent 7,314,9711: 11 None 12 Part F. Heading to be used on papers 13 The following heading must be used on all papers filed in this

14

interference, see SO ¶ 106.1.1:

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Institut National de la Recherche Agronomique, Junior Party

(Application 10/613,053

Inventors: Jun Imamura, Hideya Fujimoto, Ritsuko Yanagidate, Nobuya Koizuka, Takako Sakai and Takahiko Hayakawa),

v.

BASF Plant Science GMBH, McGill University, and DNA Landmarks, Inc., Senior Party

(Patent 7,314,971

Inventors: Fang-Ming Lai, Charles Dendy, Natasa Formanova, Gregory G. Brown, Benoit S. Landry, Wing Cheung, Hua Jin and Martin LaForest).

> Patent Interference No. 105,682 (RES) (Technology Center 1600)

Title of Paper

- 1 Part G. Order form for requesting file copies
- When requesting copies of files, use of SO Form 4 will greatly
- 3 expedite processing of the request. Please attach a copy of Parts D and E of
- 4 this DECLARATION with a hand drawn circle around the patents and
- 5 applications for which a copy of a file wrapper is requested.

/Richard E. Schafer/ Administrative Patent Judge Enc:

Copy of STANDING ORDER Copy U.S. Patent 7,314,971 Copy of claims of 10/613,053

cc (via overnight delivery):

Attorney for Agronomique:

Greenlee Winner And Sullivan P.C. 4875 Pearl East Circle Suite 200 Boulder, Co 80301

Attorney for BASF et al:

Patricia A. McDanials, Esq. 26 Davis Drive Research Triangle Park, NC 27709

BASF Corporation Carl-Bosch-Strasse 38 Ludwigshafen D6705-6 De Germany